MEMORANDUM OPPOSING CERTIORARI.

RESPONDENTS REPRESENT THE FOLLOWING TO THIS COURT:

1. The decision by the United States District Court For the Southern District of West Virginia in this action was entered on June 5, 1972 and is reported at 344 F. Supp. 1141.

2. The United States Court of Appeals For the Fourth Circuit affirmed that decision and adopted the opinion of the district court, entering its judgment on April 17, 1973. That decision is cited at 475 F. 2d 1399 and is accurately reproduced in the petition at pages A-13 and A-14.

3. This civil action concerns a seniority dispute arising under the terms of a collective bargaining agreement. Before this action was brought, the dispute was resolved by a decision of a labor-management joint committee, which committee was created and which decision was made *final and binding* by the mutually agreed-upon provisions of the aforementioned collective bargaining agreement. Notwithstanding, the sole objective of this action is to seek judicial review of the already-settled dispute. The detailed facts of the case are accurately set forth at pages A-1 through A-9 of the petition.

4. This case presents a controversy which plainly is governed by federal law as established by this Court in *United Steelworkers of America v. Enterprise Wheel & Car Corp.*, 363 U. S. 539 (1960); *General Drivers, Warehousemen & Helpers Local Union 89 v. Riss & Co.*, 372 U. S. 517 (1963); *Humphrey v. Moore*, 375 U. S. 335 (1964); and *Vaca v. Sipes*, 386 U. S. 171 (1966). Since the commencement of this action in February, 1970, both the petitioners and the respondents in support of their respective positions have relied consistently upon the legal principles estab-

lished in the above-cited cases. In doing so, they have admitted, and necessarily agreed upon, the applicable and controlling federal law.

5. In reaching their decisions, the courts below, as they were bound to do, correctly applied the controlling federal law, as established by this Court in the above-cited cases, to the undisputed facts of the controversy. There is no question, and none is raised in the petition, as to the appropriateness of either the application of the controlling law to the facts by the courts below, or of their interpretation of that law.

6. Furthermore, the decision in the instant case is not in conflict with the decision of any court of appeals, or of any other court, and the petition does not assert to the contrary.

7. As is apparent from the question presented in the petition, the instant dispute is one which turns upon its own special facts, and, therefore, any decision thereof will have an effect only upon the parties to this action.

8. A review of the facts which are evidenced in the record clearly reveals that there are no genuine issues as to any material facts. Consequently, pursuant to *Fed. R. Civ. P.* 56, a summary judgment disposition of this case by the courts below was both appropriate and correct.

THEREFORE, in light of the above, this case clearly does not warrant review by this Court, and thus the petition for a writ of certiorari should be denied.

Respectfully submitted,

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